

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9926 of 2005

ORDER:

This writ petition is filed seeking Mandamus declaring the proceedings dated 28.6.2004 issued by the first respondent, which was confirmed by the respondents 2 and 3 by orders dated 1.2.2005 and 7.4.2005 respectively as arbitrary and illegal.

The petitioner is a fair price shop dealer of V.Rudravaram village, Ghantashala mandal, Krishna district. He belongs to Scheduled Caste community and running the fair price shop since last 10 years. While so, the authorization of the petitioner was cancelled by the first respondent vide proceedings dated 28.6.2004 after conducting enquiry into the charges framed against him. Aggrieved by the same, petitioner filed an appeal before the second respondent, who after considering the material available on record, dismissed the appeal confirming the order passed by the first respondent-Revenue Divisional Officer. Aggrieved by the same, petitioner further carried the matter in revision before the third respondent-District Collector. The District Collector also dismissed the revision confirming the orders passed by the Joint Collector. Aggrieved by the same, the present writ petition is filed.

It is the case of the petitioner that the first respondent without conducting an independent enquiry into the allegations made against him and only on the basis of the alleged report submitted by the Mandal Revenue Officer dated 16.9.2004, cancelled the authorization of the petitioner. Further, the enquiry alleged to have been conducted by the Mandal Revenue Officer was behind the back of the petitioner and without putting the petitioner on notice and in spite of petitioner's request to supply the said enquiry report, the same was not furnished to the petitioner, thereby violated principles of natural justice. Apart from that the charges leveled against the petitioner are trivial in nature and even if they are proved, they do not call for punishment of cancellation

of licence forever.

Whereas, the learned Government Pleader appearing for respondents strenuously contended that as many as five charges are framed and they are grave in nature and they have been proved in full, therefore, no interference is called for by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made on either side and perused the impugned orders and other material made available on record.

The charges leveled against the petitioner are as under:

1. The card numbers of T.Manga Rao and another have not been mentioned in sale register of rice. Not filling up the columns in the said register, it is noted in the sale register that he has distributed 25.50 quintals have been distributed as against the 25.08 quintals.
2. Without getting release/permission from the Village Administrative Officer, Rs.7.50 economy rice has been distributed. It was noticed that 11.68 quintals of rice has been distributed as against 13.00 quintals, as per the sales register. Some columns have not been filled up in sales register.
3. Some columns have not been filled in sugar sales register. Corrections are there in 'weight' column. 2.00 kilos have been distributed to 'D' cardholders as against the supply of 1 kilo.
4. 'Rate per kilo' and 'total money' columns have not been filled in kerosene sales register. Some corrections are there in some pages regarding weight of the commodity to be given and weight of the commodity given. It was registered that 1985 litres have been distributed as against the release order of 1320 litres give by the Village Administrative Officer.
5. The dealer has not taken release order or making entries in the stock register till 8.12.1998 though he has received allotment of special quota of 450 litres of kerosene on 30.11.1998.

At the outset, I am of the opinion that the above charges do not

reveal any substantial case against the petitioner. They are general in nature apart from being trivial. Assuming that such charges are proved, the punishment of this nature is not warranted in the facts and circumstances of the case.

The learned Government Pleader however, submitted that the petitioner earlier involved in some other cases, which are not subject matter of enquiry before the authorities below. Further, the impugned order not only suffers from violation of principles of natural justice since the Mandal Revenue Officer's report was not furnished to the petitioner, but being trivial and general in nature and does not call for cancellation of authorization of the petitioner.

Therefore, the impugned order dated 28.6.2004 passed by the first respondent as confirmed by the respondents 2 and 3 by orders dated 1.2.2005 and 7.4.2005 respectively are liable to be set aside and accordingly set aside. However, ends of justice would be met if the period, for which the petitioner was kept out of business i.e. from 1.2.2005 till date is treated as suspension as a measure of punishment instead cancellation of authorisation. Therefore, the respondents are directed to treat the period from 1.2.2005 till date as suspension of the authorization and further directed to restore the authorization of the petitioner forthwith.

The writ petition is allowed to the extent indicated above. No order as to costs.

C.V.RAMULU, J

Date: 24.8.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9926 of 2005

24.8.2006

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9926 of 2005

Dated: 24th August, 2006

Between:

Done Balaiah

.. Petitioner

and

The Revenue Divisional Officer,
Bandar, Krishna district & others.

.. Respondents